

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**

MAR 07 2000

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MIDWEST MOTOR SPORTS, INC., a )  
South Dakota corporation, d/b/a ELLIOTT )  
POWER SPORTS; ) C.V.. No. 99-4117  
Plaintiff, )  
vs. ) **PLAINTIFF'S MOTION**  
ARCTIC CAT SALES, INC., a Minnesota ) **FOR SANCTIONS**  
Corporation, )  
Defendant. )  
\*\*\*\*\*

COMES NOW THE PLAINTIFF, Midwest Motor Sports, Inc., a South Dakota corporation doing business as Elliott Power Sports, hereby respectfully moves this Honorable Court for sanctions against Defendant and its counsel for violations of Rules 4.2, 5.3 and 8.4 of the South Dakota Rules of Professional Conduct by using trickery and deception to make secret audio recordings of Plaintiff and other witnesses known to be represented by counsel as follows:

- (1) Striking Defendant's Amended Answer and entering judgment for Plaintiff on the issue of liability; and
- (2) Imposing a substantial monetary sanction, including an award of all attorney fees and expenses incurred by the Plaintiff to date.

This motion is supported by an accompanying brief and Appendix of Exhibits, including deposition transcripts and copies of the tape recordings at issue.

The Plaintiff respectfully requests that it be heard on this motion at the Pre-Trial Conference scheduled for March 27, 2000 at 1:30 P.M.

WHEREFORE, Plaintiff respectfully requests that its Motion for Sanctions be granted.

Dated this 7<sup>th</sup> day of March, 2000.

**JOHNSON, HEIDPRIEM, MINER,  
MARLOW & JANKLOW, L.L.P.**

BY RA Parsons for  
Steven M. Johnson  
431 N. Phillips Ave. Suite 400  
Sioux Falls, SD 57104  
(605) 338-4304

*Attorneys for the Plaintiff*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the **Plaintiff's Motion for Sanctions** was on this day sent by U.S. mail, postage prepaid, to attorneys for the Defendant, Roger W. Damgaard and Tim R. Shattuck, Woods, Fuller, Shultz & Smith, P.C., 300 South Phillips Avenue, Suite 300, P.O. Box 5027, Sioux Falls, SD 57117-5027.

Dated this 7<sup>th</sup> day of March, 2000.

RA Parsons for  
Steven M. Johnson